

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3131 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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TRUPTI RAMANLAL DAVE

Versus

CENTRAL EXCISE & CUSTOMS

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Appearance:

1. Special Civil Application No. 3131 of 1995  
MR MB GANDHI for Petitioner  
MR BB NAIK for Respondent No. 1

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 21/08/96

ORAL JUDGEMENT

This Special Civil Application has been filed by Mr Trupti Ramanlal Dave seeking direction to the respondents to implement assessment made by the CPWD for the period prior to 9.9.93 and further prayer has been made to direct the respondents to make payment for the

year 1992 and subsequently as per the rent assessed by the CPWD.

2. It is not in dispute that under the certificate dated 9.9.1988, the CPWD has assessed the rent of the premises between Rs.4645/- and Rs. 5027/-. The Assessment has been made in accordance with the recognised principles of valuation and as per the prevailing market rates in the locality. It would thus, be convenient to fix the rent of the premises taking the average of the aforesaid two figures given in the certificate which comes to Rs.4,836/-. Similarly, it is also not in dispute that under the certificate dated 7.12.1993, the rent of the premises has been assessed as per the principles laid down by the Directorate at Rs.6,638/- and as per the prevailing market rate Rs.8,883/-. Taking the average of the two figures, the rent can be conveniently fixed as Rs.7,768/- per month for the period 1992-93. Under the certificate dated 17.12.1994, the assessment has been made for the period 1993 onwards as per the recognised principles laid down at Rs.8,980/- per month and as per the market rate Rs 9,551/- per month. Thus, it would be convenient to fix the average rent which comes to Rs.9,265/-. It is stated that certain amount of rent has been paid to the petitioner under the interim orders of this Court.

3. In view of the above, this Special Civil Application is allowed. The respondents are directed to fix the rent as indicated above for the different periods and the amount be calculated accordingly after adjusting the amount paid in excess or short. If the amount has been paid in excess, the same shall be adjusted in the future rent. Average rent as indicated above under certificate dated 17.12.1993 shall remain in force for a period of 5 years and the respondents shall regularly pay the rent to the petitioners. The calculation will be undertaken and the payment if any due shall be paid to the petitioners within a period of two months from the date of receipt of the writ.

Rule is made absolute accordingly with no order as to costs.

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